

REMARKS

Claims 1-27 were pending at the time of the Office Action. All stand rejected.

New attorney appointed

Applicant respectfully notes that a new power of attorney has been filed in this case earlier today.

Information Disclosure Statement

The applicant's thanks the Examiner for the acknowledging the review of the Information Disclosure Statements submitted in this matter.

Specification

The paragraph starting at page 4, line 26 and bridging over to page 5 of the specification as filed is amended above. The amended paragraph does not introduce any new matter that would not be immediately recognized in the drawings described (Fig. 3) by one of ordinary skill. Particularly, while upper edge portion 21 is correctly identified by a lead line directed at a part of housing 20 that defines opening 22, the corresponding lead line identifying reference numeral 23 is not directed at a corresponding lower edge portion, so a new lead line and reference number 23 are introduced. Also, the shape of the opening 22 that is produced by squeezing ends 24 and 25 of the opening 22 together in a single-handed operation is recognizable as the shape that is produced by compressing the ends of a pair of opposed spring members that are positioned at the parts identified as reference numerals 21' and 23'.

Drawings

The Examiner has objected to the drawings for not showing the biasing elements or springs, which were in claims 6 and 7 and are now incorporated into claim 1. A replacement drawing sheet for Fig. 3 is provided herewith, in which part 23 is renumbered as 23' and a new reference number 23 is shown.

Claim amendments

Independent claim 1 is amended by incorporating limitations from claims 6 and 7, which are then cancelled. Support for the amendments is found at the paragraph of the specification amended above, as well as amended Fig. 3.

Independent claim 14 is amended by modifying the description of the “first housing” to require that it is the housing of claim 1. In the paragraph of the specification starting at page 8, line 1, the kit is identified as including an inner (“first”) housing 20 and an outer, or second, housing 10. As discussed above, support for the cover of claim 1, which is housing 20 of Fig. 3, is found at the paragraph starting at page 4, line 26 and bridging over to page 5 of the specification as filed.

Claim rejection under 35 USC 112, second paragraph

The Examiner has rejected claims 6, 7 and 27 as being indefinite for failing to show the claimed biasing element in the drawings. This rejection is believed to be overcome by the drawing amendment and the specification amendment made above.

Claim rejections under 35 U.S.C. 102

The Examiner has rejected claims 1-4, 5, 8-16 and 18-26 under 35 USC 102(b) as anticipated by US Patent 6,540,724 B1 to Harris (“Harris ‘724”). Applicant respectfully traverses, based on amended independent claims 1, 14 and 25.

First, although the Examiner lists claim 4 as one of the claims rejected as anticipated under 102, it is clear from the detailed rejection that claim 4 is only rejected as obvious under 103.

The rejection of claim 1 is believed to be overcome because the limitations of claims 6 and 7, which are admitted by the Examiner to not be found in Harris ‘724, are now incorporated into claim 1.

The rejection of claim 14 is believed to be overcome by the amendment to claim 14, which requires the first housing to be a housing according to claim 1

The rejection of independent claim 25 is believed to be overcome by the amendment requiring that the housing be a housing “according to claim 1”, which readily distinguishes Harris ‘724.

Claim rejections under 35 U.S.C. 103

The Examiner has rejected claims 4, 6, 7, 17 and 27 as obvious over Harris ‘724 in view of US published application 2004/0186450 A1 to Hermansson (“Hermansson ‘450”). Applicant respectfully traverses.

In rejecting claims 6, 7 and 27, the Examiner admits that Harris ‘724 does not disclose the edge of the housing being biased for operation between a closed position and an open position. While claims 6 and 7 are cancelled, those limitations are now found in claim 1, so the applicant asserts that claim 1 is not obvious over the cited combination. The Examiner’s position is that one of ordinary skill would know of Hermansson ‘450 and use the band shaped plate spring 620 of Hermansson ‘450 Figs 6 and 7. Hermansson ‘450 teaches this band shaped plate spring 620 as one variant of a “distance element”, the purpose of which is to facilitate the opening of the package by spacing the “lid part” and the “container part” from each other. Hermansson ‘450, ¶ 0008. This is antithetical to the purpose of the hook and loop fastener used in the “releasable securing device 58” in Harris ‘724, for which it would be substituted. It is a stated purpose of the Harris ‘724 securing device 58 to releasably secure the external tubing of catheter within the housing while a free end of the catheter is retained inside the housing. The frictional engagement of the securing device with the external tubing allows the housing to be self-supporting and eliminate any need to otherwise secure the housing to the patient’s body. Harris ‘724, Col. 2, lines 20-30 and Fig. 6. Further, the use of a hook and loop fastener is not intended for operation between the closed and open positions using a single hand, nor is the Hermansson ‘450 device, because if the fingers of one hand are used to get “under the edge and lift up the lid part from the container part”, it is pretty clear that the other hand is grasping the container part. See Hermansson ‘450, ¶ 0008.

In rejecting claims 4 and 17, both of which deal with water impermeability, applicant readily admits that the substitution of a water impermeable material for the soft woven fabric taught in Harris '724 is a design choice, as there is no teaching in Harris that would preclude the water impermeable material. Accordingly, the rejection would not require Hermansson '450. In fact, the applicant asserts that Hermansson '450 is intended for such a different use than the Harris '724 product that one of ordinary skill would not combine them in trying to locate an appropriate selection of material. Simply, the Harris '724 device is intended to be visibly worn on the exterior of the body, while the Hermansson '450 device is intended as a package for a device such as a sanitary napkin, and would not be visibly worn on the exterior of the body. However, as the independent claims in the case are now believed to be allowable over Harris '724, the dependent claims 4 and 17 are allowable as proper dependent claims of independent claims 1 and 14, respectively.

Telephone inquiry to the undersigned in order to clarify or otherwise expedite prosecution of the present application is respectfully encouraged.

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